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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,460	04/05/2007	Eberhard Schemm	10191/4630	9924
26646	7590	12/30/2008	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			SMITH, JASON C	
ART UNIT	PAPER NUMBER			
	3617			
MAIL DATE	DELIVERY MODE			
12/30/2008	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/565,460	SCHEMM ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jason C. Smith	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 20 January 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 13-24 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 13-24 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 20 January 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>01/20/2006</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 01/20/2006 is being considered by the examiner.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The features of claim 2 are so widely formulated that their formulation applies to any process.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 13 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Gruendl et al. (DE4126454). Gruendl et al. discloses a linear motor (abstract, “synchronous linear motor”) for a modular transportation device, comprising: at least

one primary part (abstract, “stator section”) having a plurality of field-generating coils that are mounted side-by-side along a predetermined route; at least one secondary part (abstract, “exciter part”), wherein the plurality of field-generating coils of the at least one primary part provides a propulsion field for propulsion of the at least one secondary part, and wherein the at least one secondary part is configured to support at least one consumer positioned on the at least one secondary part; and an energy transmitting interface (abstract, “auxiliary devices”) interposed between the at least one primary part and the at least one secondary part, wherein an energy supply field having a higher frequency than a frequency of the propulsion field is superposed on the propulsion field, and wherein the energy supply field is inductively coupled via the energy transmitting interface and supplies energy to the at least one consumer positioned on the at least one secondary part (abstract, “for inductively transmitting power, a relatively high frequency alternating current is superimposed on the alternating current which is provided for generating the traveling wave field”). Regarding claims 16-18, each element is disclosed in Gruendl et al.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 14 and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruendl et al. (DE4126454). Claims 14 and 20-23 refer to a method for use of the device and not to the definition of the device by means of its technical features. To the extent that claim 2 is comprehensible, its subject matter relates to a plurality of method steps ("application process", "to execute"). The subject matters of claims 20-23 all relate to the generation of the power supply field or the provision of power and are thus method steps. The subject matter of claim 24 differs from the subject matter of claim 13 only in having a different specified purpose, which has virtually no effect on the scope of protection in an apparatus claim. The linear motor of Gruendl et al. is suitable for the purpose specified in claim 24.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruendl et al. (DE4126454) in view of Sink (5,497,038). Gruendl discloses the linear motor set forth above, but does not disclose a coil drive circuit. However, Sink does disclose a coil drive circuit (claim 20). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to provide a coil drive circuit disclosed in Gruendl et al. in view of the teaching of Sink. The motivation for doing so would have been to create a traveling field that moves along with each magnet assembly.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason C. Smith whose telephone number is (571) 270-5225. The examiner can normally be reached on M- F, 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason C Smith/  
Examiner, Art Unit 3617

/S. Joseph Morano/  
Supervisory Patent Examiner, Art Unit 3617